

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
AMARILLO DIVISION**

§
UNITED STATES OF AMERICA,
ex rel. ALEX DOE, RELATOR, *et al.* §
§
§
Plaintiffs, §
§
v. § Civil Action No. 2-21-CV-022-Z
§
PLANNED PARENTHOOD FEDERATION §
OF AMERICA, INC., *et al.* §
§
§
Defendants. §

**SUPPLEMENT TO TEXAS'S MOTION TO COMPEL DEFENDANTS'
PRODUCTION OF DOCUMENTS IDENTIFIED ON DEFENDANTS'
PRIVILEGE LOGS**

On the same day Texas filed its Motion to Compel (Dkt. 354), the Affiliate Defendants¹ served a third privilege log. On December 18, 2022—three days later—the Affiliates served a *revised* third privilege log. Their revised third log spans more than 360 pages and contains over 4,100 entries. The volume of the third log and the dates of service—more than two weeks after the close of discovery—precluded Texas from challenging any of those entries in its Motion to Compel. After review of this log, Texas is compelled to supplement its Motion to challenge the entries attached at Suppl. Appx. 5–25 on the same bases Texas already articulated in its Motion to

¹ As referred to herein, “Affiliate Defendants” includes Defendants Planned Parenthood Gulf Coast, Inc. (PPGC), Planned Parenthood of Greater Texas, Inc. (PPGT), Planned Parenthood South Texas, Inc. (PPST), Planned Parenthood Cameron County, Inc., and Planned Parenthood San Antonio, Inc. References to “Defendants” means Affiliate Defendants along with Defendant Planned Parenthood Federation of America, Inc (PPFA).

Compel. Specifically, Defendants assert privilege over documents that include members of PPFA's Litigation and Law Department ("L&L") communicating with individuals who span multiple entities and organizations including PPFA staff outside of L&L, Planned Parenthood affiliates, and other ancillary organizations such as Planned Parenthood Texas Votes ("PPTV"). As explained in Texas's Motion to Compel, deposition testimony has revealed that Defendants' assertion of privilege over these communications is baseless. Indeed, Affiliates' third privilege log raises even more questions about the validity of Defendants' privilege claims; there are 27 individuals identified in the third log that do not appear to be part of any privilege. For example, Defendants' logs list documents withheld or redacted that include persons with no identifying information at all. Other entries include individuals who may be attorneys but for whom there is no basis to assess whether they even represented Defendants at the time of the communication.

A supplemental list of persons included on communications that do not appear to be within the scope of any privilege is attached hereto at Suppl. Appx. 1–4. Based on that list, additional entries Texas respectfully requests the Court to compel Defendants to produce is attached hereto at Suppl. Appx. 5–25. Defendants have not met their burden to establish that these documents are privileged and there is no indication in the logs that the requested communications are properly withheld or produced in redacted form on the basis of any privilege.

PRAYER

For the reasons set forth in the State's Motion to Compel (Dkt. 354) and in this Supplement, Texas respectfully asks the Court to compel Defendants to produce the materials identified in its Motion to Compel and this Supplement within three calendar days of the date of the Court's order on the Motion and for all other relief shown to be just and proper.

Dated: December 19, 2022

Respectfully submitted,

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ATTORNEYS FOR STATE OF TEXAS

CERTIFICATE OF SERVICE

I hereby certify that on December 19, 2022, this document was electronically filed and served via the Court's CM/ECF system.

/s/ Christopher D. Hilton

CHRISTOPHER D. HILTON